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DEPARTMENT OF COMMERCE
International Trade Administration
A-570-898

Chlorinated Isocyanurates from the People's Republic of China: Preliminary Rescission of Antidumping Duty New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce

EFFECTIVE DATE: (Insert the publication date in the Federal Register.)

SUMMARY: The Department of Commerce (the Department) is currently conducting a new shipper review (NSR) of the antidumping duty order on chlorinated isocyanurates from the People's Republic of China (PRC) for the period of June 1, 2010, through December 31, 2010.

As discussed below, we preliminarily determine that the producer and exporter Heze Huayi Chemical Co. Ltd. (Heze Huayi) did not satisfy the regulatory requirements to request a new shipper review; therefore, we are preliminarily rescinding this new shipper review. We invite interested parties to comment on these preliminary results. See "Comments" section below. If these preliminary results are adopted in our final results of this review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate Heze Huayi's entries of subject merchandise during the period of review (POR).

FOR FURTHER INFORMATION CONTACT: Jun Jack Zhao, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1396.

SUPPLEMENTARY INFORMATION

Background

On June 24, 2005, the Department published the order on chlorinated isocyanurates from the PRC. See Notice of Antidumping Duty Order: Chlorinated Isocyanurates from the People's Republic of China, 70 FR 36561 (June 24, 2005). On December 20, 2010, pursuant to section 751(a)(2)(B)(i) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.214(c), the Department received a NSR request from Heze Huayi. On February 4, 2011, the Department initiated the NSR. See Chlorinated Isocyanurates From the People's Republic of China: Initiation of New Shipper Review, 76 FR 6399 (February 4, 2011) (Initiation Notice).

On January 21, 2011, the Department placed on the record of this review CBP data for entries of chlorinated isocyanurates imported from the PRC during the POR. See Memorandum to the File, from Krisha Hill, Analyst, Re: Chlorinated Isocyanurates from the People's Republic of China: Customs Query Results for Heze Huayi Chemical Co., Ltd., January 21, 2011. On February 14, 2011, the Department placed on the record of this review copies of CBP entry documents pertaining to Heze Huayi's shipments of chlorinated isocyanurates during the POR. See Memorandum to the File, from Gene H. Calvert, Analyst, "Chlorinated Isocyanurates from the People's Republic of China, New Shipper Review (A-570-898): Placement of U.S. Customs and Border Protection (CBP) Entry Summary Documentation on the Record of the Instant New Shipper Review," February 14, 2011 (Customs Entry Documents).

On February 22, 2011, the Department issued a new shipper antidumping questionnaire to Heze Huayi. Heze Huayi submitted its section A response on March 15, 2011, and its section C and D responses on April 14, 2011. On May 13, July 14, and August 31, 2011, the Department issued supplemental questionnaires to Heze Huayi. Heze Huayi responded to these

supplemental questionnaires on May 27, July 28, and September 14, 2011, respectively. On May 31, 2011, Heze Huayi submitted publicly available surrogate value information for consideration in the preliminary results.

On September 26 and 27, 2011, Petitioners, Clearon Corporation and Occidental Chemical Corporation, filed rebuttal factual information and comments regarding Heze Huayi's third supplemental questionnaire response. On October 3, 2011, Heze Huayi filed comments in response to Petitioners' rebuttal factual information.

On July 15, 2011, the Department extended the time limit for issuing the preliminary results of review. See Chlorinated Isocyanurates From the People's Republic of China: Extension of Time Limit for Preliminary Results of Antidumping Duty New Shipper Review, 76 FR 41760 (July 15, 2011).

Period of Review

Pursuant to 19 CFR 351.214(g), the POR for this NSR is the semi-annual period of June 1, 2010, through November 30, 2010. In its request for a NSR, Heze Huayi requested that we extend the POR for its NSR to capture the entry of its shipment in December, after the six-month semi-annual NSR POR. When the sale of the subject merchandise occurs within the POR specified by the Department's regulations, but the entry occurs after the POR, the POR may be extended unless it would be likely to prevent the completion of the review within the time limits set by the Department's regulations. See 19 CFR 351.214(f)(2)(ii). Additionally, the preamble to the Department's regulations states that both the entry and the sale should occur during the POR, but that under "appropriate" circumstances the Department has the flexibility to extend the POR. See Antidumping Duties; Countervailing Duties; Final Rule, 62 FR 27296, 27319-20 (May 19, 1997). Based on the information contained in Heze Huayi's request for a NSR, it

appeared that the sale of subject merchandise was made during the POR specified by the Department's regulations and that the shipment entered in the subsequent month. Based on information provided by Heze Huayi, the Department found that extending the POR to capture this entry would not prevent the completion of the review within the time limits set by the Department's regulations. Therefore, the Department extended the POR for Heze Huayi's NSR by one month, i.e., through December 31, 2010. See Initiation Notice, 76 FR at 6399.

Scope of the Order

The products covered by the order are chlorinated isocyanurates, which are derivatives of cyanuric acid, described as chlorinated s-triazine triones. There are three primary chemical compositions of chlorinated isos: (1) trichloroisocyanuric acid ($\text{Cl}_3(\text{NCO})_3$), (2) sodium dichloroisocyanurate (dihydrate) ($\text{NaCl}_2(\text{NCO})_3(2\text{H}_2\text{O})$), and (3) sodium dichloroisocyanurate (anhydrous) ($\text{NaCl}_2(\text{NCO})_3$). Chlorinated isos are available in powder, granular, and tableted forms. The order covers all chlorinated isocyanurates.

Chlorinated isos are currently classifiable under subheadings 2933.69.6015, 2933.69.6021, 2933.69.6050, 3808.40.50, 3808.50.40 and 3808.94.5000 of the Harmonized Tariff Schedule of the United States (HTSUS). The tariff classification 2933.69.6015 covers sodium dichloroisocyanurates (anhydrous and dihydrate forms) and trichloroisocyanuric acid. The tariff classifications 2933.69.6021 and 2933.69.6050 represent basket categories that include chlorinated isocyanurates and other compounds including an unfused triazine ring. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

Preliminary Rescission of the Antidumping Duty New Shipper Review of Heze Huayi

The NSR provisions of the Department's regulations require that the entity making a request for a NSR must document and certify, among other things: (1) the date on which subject merchandise of the exporter or producer making the request was first entered, or withdrawn from warehouse, for consumption, or, if it cannot establish the date of first entry, the date on which the exporter or producer first shipped the merchandise for export to the United States; (2) the volume of that and subsequent shipments; and (3) the date of the first sale to an unaffiliated customer in the United States. See 19 CFR 351.214(b)(2)(iv). If these provisions are met, the Department will conduct a NSR to establish an individual weighted-average dumping margin for the new shipper. See generally 19 CFR 351.214(b)(2).

In its request for a NSR, Heze Huayi provided certified statements that it had only one U.S. sale, which it stated took place on October 8, 2010, and that the sale entered the United States on December 1, 2010. See Letter from Heze Huayi to the Secretary of Commerce, "Chlorinated Isocyanurates from the People's Republic of China: Request for New-Shipper Review," December 20, 2010. Based on this information, the Department initiated the NSR for Heze Huayi.

However, based on an analysis of the CBP data, the Customs Entry Documents, and Heze Huayi's supplemental questionnaire responses, the Department has now determined that Heze Huayi had additional sales and entries that were not reported to the Department in its request for a NSR under 19 CFR 351.214(b)(2)(iv). As noted, in order to qualify for a NSR under 19 CFR 351.214, a company must certify and document, among other things, the dates of the first sale and all subsequent sales to the United States. Id. Because Heze Huayi had additional unreported sales and entries to the United States during the POR, the Department has preliminarily found

that Heze Huayi's request for a NSR did not satisfy the regulatory requirements for requesting a NSR, and the Department thus preliminarily determines that it is appropriate to rescind the NSR for Heze Huayi. As much of the factual information used in our analysis of Heze Huayi's additional sales and entries involves business proprietary information, a full discussion of the basis for our preliminary determination is set forth in the Memorandum to Barbara E. Tillman, Director, AD/CVD Operations, Office 6, "Analysis of Heze Huayi Chemical Co., Ltd.'s Additional Sales in the Antidumping Duty New Shipper Review of Chlorinated Isocyanurates from the People's Republic of China," November 7, 2011.

Assessment Rates

If we proceed to a final rescission of Heze Huayi's NSR, Heze Huayi's shipments will be subject to the PRC-wide rate. The Department is currently conducting an administrative review for the POR June 1, 2010, through May 31, 2011, in which the PRC-wide rate is under review. If we proceed to a final rescission, upon completion of the 2010-2011 administrative review, we will instruct CBP to assess antidumping duties on entries exported by Heze Huayi at the appropriate PRC-wide rate determined in the 2010-2011 administrative review and we will instruct CBP to assess antidumping duties on the entries covered by this NSR at the rate established in the final results of the administrative review.

Cash Deposit Requirements

Effective upon publication of the final rescission of the NSR or the final results of the NSR, we will instruct CBP to discontinue the option of posting a bond or security in lieu of a cash deposit for entries of subject merchandise exported by Heze Huayi. If we proceed to a final rescission of the NSR, the cash deposit rate will continue to be the per-unit PRC wide rate for entries exported by Heze Huayi. If we issue final results for the NSR, we will instruct CBP to

collect cash deposits, effective upon the publication of the final results, at the rates established therein.

Disclosure

We will disclose our analysis to parties to this proceeding not later than five days after the date of public announcement, or, if there is no public announcement, within five days of the date of publication of this notice. See 19 CFR 351.224(b).

Comments

Interested parties are invited to comment on these preliminary results and may submit case briefs within 30 days of the date of publication of this notice, unless otherwise notified by the Department. See 19 CFR 351.309(c)(ii). Rebuttal briefs, limited to issues raised in the case briefs, will be due five days later, pursuant to 19 CFR 351.309(d). Parties are requested to provide a summary of their arguments not to exceed five pages, and a table of statutes, regulations, and cases cited.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration within 30 days of the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. See 19 CFR 351.310(c). Issues raised in the hearing will be limited to those raised in case and rebuttal briefs. The Department will issue the final rescission or final results of this NSR, including the results of our analysis of issues raised in any briefs, not later than 90 days after this preliminary rescission is issued, unless the deadline for the final rescission or final results is extended. See 19 CFR 351.214(i).

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

The NSR and notice are in accordance with sections 751(a)(2)(B) and 777(i) of the Act and 19 CFR 351.214(f).

Paul Piquado
Assistant Secretary
for Import Administration

__November 7, 2011_____
Date

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